

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

HOWARD HURT,

Plaintiff,

v.

CITY OF ATLANTIC CITY, et al.,

Defendants.

HONORABLE JEROME B. SIMANDLE

Civil No. 08-3053 (JBS/JS)

ORDER

This matter having come before the Court upon the motion of the Defendants Frank Timek, William Warner, and Heidi Clayton for summary judgment [Docket Item No. 14]; the Court having considered the submissions of the parties in support thereof and in opposition thereto; for the reasons set forth in the Opinion of today's date; and for good cause shown;

IT IS this 24th day of **February, 2010** hereby

ORDERED that the defendants' motion for summary judgment shall be, and hereby is, **GRANTED IN PART AND DENIED IN PART** as follows:

- (1) Summary judgment is GRANTED in favor of Defendant Clayton as to all of Plaintiff's claims.
- (2) Summary judgment is GRANTED in favor Defendant Timek and Defendant Warner on Plaintiff's claims under the Fifth Amendment and the Fourteenth Amendment, as well as any claims for false arrest.

(3) Summary judgment is DENIED to Defendant Timek and Defendant Warner on Plaintiff's Fourth Amendment excessive force claims, Plaintiff's claims under Article I, paragraph 7 of the New Jersey Constitution, and Plaintiff's tort law claims.

s/ Jerome B. Simandle

JEROME B. SIMANDLE

United States District Judge